

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, to investigate issues related to the current state of landline and enhanced wireless 911 service and the means to ensure statewide access to landline 911 and enhanced wireless 911 service.)))))))	Application No. 911-014/PI-99
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COMMENTS OF N.E. COLORADO CELLULAR, INC.

N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless (“Viaero”) hereby files these comments in response to the Nebraska Public Service Commission’s (the “Commission”) Order Opening Docket (the “Order”) in the above-captioned proceeding, entered June 28, 2005. Viaero welcomes the opportunity to provide the Commission with information on the subjects raised in the Order.

I. Introduction.

Viaero is an independent wireless carrier, operating in the Commercial Mobile Radio Service (“CMRS”) band, licensed by the FCC to provide cellular and personal communications service (“PCS”) in Nebraska and Colorado. The company has been serving Colorado for over fifteen years and acquired PCS licenses to serve the western two-thirds of Nebraska in 2003. Viaero has built its business on a model that “coverage is king” because it strongly believes that consumers will gravitate to the carrier who offers, to the greatest extent possible, seamless wireless coverage throughout the areas where people live, work and play.

In Colorado, Viaero’s original business plan involved populating the six-county area where it was originally licensed with analog cellular coverage that significantly exceeded that of its competition. While Viaero’s competition was first to offer new digital service in many areas,

Viaero stuck with offering consumers the benefit of having a mobile phone that works virtually anywhere within the company's FCC-licensed service area. Before E-911 became an industry buzz word, Viaero was already delivering health and safety benefits that exceed what is available today in most rural areas across the country. The simple fact is that 911 service saves far more lives than E-911 service. Coverage is a prerequisite to either 911 or E-911 service and in terms of overall health and safety, 911 is far more important, as the vast majority of callers can speak and identify their location. Viaero's Colorado network has been upgraded to digital technology and consumers there are receiving Phase I E-911 service throughout the area and Phase II E-911 service in every area where PSAPs have made requests.

In Nebraska, Viaero's operations on PCS spectrum necessitate all digital deployments, as there is no analog equipment manufactured for the PCS frequency bands. Thus, Viaero is Phase I compliant at each cell site from the date of construction and is prepared to meet Phase II requests as PSAPs become ready to accept Phase II data. Over the past two years, Viaero has been working with the Commission's E-911 coordinator on deployment issues, and frankly it has been a very positive and productive relationship.

II. Comments.

A. The Task of Becoming Phase II E-911 Compliant is Potentially Enormous.

As the Commission prepares to deploy E-911 throughout the state, Viaero offers the following information about its capabilities to deploy Phase II E-911. Under the FCC's rules, a carrier is ordinarily given six months within which to comply with a valid PSAP request for Phase II E-911. See 47 C.F.R. Section 20.18. In Colorado, PSAP requests have come in at different times. That is, Viaero was not confronted with simultaneous PSAP requests. This is

important because there is a significant amount of work to be done to upgrade a cell site and switch to meet each Phase II upgrade. The larger the network, the more work has to be done.

Viaero has had no problem complying with Phase II E-911 requests in Colorado. Its network team understands its technology and its capabilities and has successfully overseen the deployment of a Phase II solution by a third party vendor. Each deployment to a PSAP carries with it a significant task list which requires the investment of many man hours and numerous personnel to complete. In addition to ordering and installing equipment, vendors often have to drive test the system and make adjustments to improve location accuracy. All of these tasks take time and oftentimes Viaero's personnel must work on the vendors' timetables.

Because its Nebraska network covers many PSAPs and is growing rapidly, Viaero asks the Commission to implement Phase II on a rolling schedule to permit wireless carriers to comply in an orderly fashion. Viaero is concerned that if every Nebraska PSAP requests Phase II on the same day, Viaero will not be able to comply with every request within six months. There is equipment to purchase and there are installations to perform to be Phase II compliant. Viaero has done it before and has the technical expertise to do it without problem; however, the size of the deployment may make it difficult to complete the entire network within six months of a request that covers Viaero's entire network. The extent of the problem will increase over time, as Viaero continues to add network infrastructure in Nebraska, and new cell site construction will accelerate if Viaero is designated as an ETC.¹ Thus, the longer it takes to fund E-911, the harder it will be to complete the upgrade within six months.

A related issue is Viaero's ability to construct new cell sites. If an *en masse* request for E-911 Phase II is made, Viaero will have to refocus its efforts on E-911 deployment and the construction of new cell sites may be significantly slowed during the Phase II roll out.

¹ See Viaero's application for ETC status in Application No. C-3324.

At this time, Viaero estimates that if the Commission were to give the go-ahead to Phase II in 2006, it would take Viaero two years to complete a Phase II deployment throughout its entire network. Viaero will be pleased to continue to work with the Commission's E-911 coordinator on this issue to ensure a smooth deployment. We are hopeful that by bringing these practical issues to the fore early, the Commission will be able to factor these considerations into its decisions about how E-911 Phase II is deployed. Viaero wants very much to meet its obligations to provide E-911 Phase II at the earliest possible date, but also wants the Commission to understand that the task of upgrading potentially hundreds of cell sites and associated switching equipment within six months of a request for E-911 Phase II service throughout the entire western two-thirds of the state, is enormous.

B. The Commission should fund E-911 Phase II upgrades.

Similar to the Communications Assistance for Law Enforcement Act ("CALEA"), Phase II E-911 requires infrastructure investment to bring a network into compliance with a federal government mandate. Consumers are the beneficiaries of this technology. Viaero believes that in order to deploy Phase II E-911 service to consumers at the earliest possible date, the Commission should fund some significant portion of carriers' infrastructure costs in deploying E-911 Phase II capabilities.

If the state does not fund E-911, Viaero will fund it out of available capital. Ironically, if carriers fund E-911 Phase II deployment, consumer safety will be compromised. To use Viaero as an example, the company is plowing every possible dollar into constructing new sites in Nebraska, and will do so for the foreseeable future, as there are many areas within the state that are unserved or are underserved. Every dollar spent on E-911 technology will be a dollar not

spent on new cell site construction. Thus, the preeminent benefits of 911, the ability to get a call through, will be limited by the deployment of E-911 Phase II in many areas.

This situation is especially acute for consumers who use Viaero's service, which is a GSM platform. Phase II E-911 deployments on GSM systems use a "network solution." That is, nearby towers "triangulate" on a handset that dials 911 and sends location data to a PSAP. As tower density increases, so too does the accuracy of a network solution. Thus, Viaero's ability to deliver accurate E-911 location data will largely depend on its ability to roll out sufficient numbers of cell sites to properly triangulate on a 911 caller. This triangulation issue is why many urban wireless providers have had no problem meeting Phase II accuracy standards but many rural carriers have had difficulties. In many remote areas, only one tower is constructed to provide service and there is not the needed tower density to permit triangulation. Universal service funding, which will lead to new tower construction, will help increase the accuracy of network solutions.

In Colorado, where a PSAP has made the necessary upgrades to accept the Phase II information and a request is made of a wireless carrier for Phase II E-911, the carrier is eligible for reimbursement for upgrade costs. Viaero believes consumers in Nebraska would be well served by the adoption of a reimbursement mechanism that will accelerate both PSAP and wireless carrier implementation of Phase II E-911 and permit carriers to use all available investment dollars to construct high-quality wireless networks that will expand the availability of 911 and E-911 service.

In sum, Viaero asks the Commission to balance the goal of providing consumers with the basic ability to dial 911 from anywhere within a wide area with the need to roll out Phase II E-911 in an orderly fashion. Viaero's view is that consumers are far better off with a wide area

network that delivers 911 than they are with a lesser deployment that is fully E-911 Phase II capable. If E-911 Phase II can be funded, consumers will see the benefits much sooner, over a much wider area, and in the case of operators deploying a network solution, consumers will receive greater accuracy.

III. Conclusion.

Viaero appreciates the opportunity to provide these comments to the Commission and would be pleased to provide any additional information upon request.

Respectfully submitted this 12th day of August, 2005.

**N.E. COLORADO CELLULAR, INC.,
d/b/a VIAERO WIRELESS**

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 12th day of August, 2005, an original, five copies and an electronic copy of the Comments of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, in Application No. 911-014/PI-99 were hand delivered to:

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